**HON'BLE SRI JUSTICE V.V.S.RAO**

**WRIT PETITION No.18723 of 2006**

**Dated:11.09.2006**

**Between:**

Sri Adapa Nanda Gopal

…Petitioner

and

The Joint Collector and others.

…Respondent

**HON'BLE SRI JUSTICE V.V.S.RAO**

**WRIT PETITION No.18723 of 2006**

**ORDER:**

The petitioner herein claims to have a share in the property admeasuring Acs.15.12 guntas in Survey Nos.118, 122 and 134 situated at Vampuguda, Hamlet of Kapra Village, Keesara Mandal in Ranga Reddy District. He claims to be one of the successors in title to the property owned by late Adapa Vittal along with others. In 2006, having come to know that some third parties executed Agreement of Sale-cum-General Power of Attorney (GPA) documents in favour of respondents 6 and 7, without any valid title or interest, the petitioner filed a suit, being O.S.No.1562 of 2006, on the file of the Court of the II Additional Senior Civil Judge, Ranga Reddy District, for perpetual injunction. He also filed Interlocutory Application, being I.A.No.1352 of 2006, under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure, 1908, for *ad interim* injunction restraining the respondents therein (defendants 1 and 2 in the suit) from interfering with peaceful possession and enjoyment of the lands in Survey Nos.118, 122 and 134 of Vampuguda Village. Respondents 6 and 7 herein filed counter affidavit to the Interlocutory Application as well as the written statement in the suit, *inter alia*, stating that the second respondent herein passed orders under Section 38-A of the Andhra Pradesh (Telangana Area) Tenancy and Agricultural Lands Act, 1950 (for short 'the Tenancy Act'), in favour of the tenants declaring the tenants as absolute owners and

possessors of the subject lands, and that the petitioner is also a party to the proceedings before the second respondent dated 27.04.2004. The petitioner, therefore, filed the present Writ Petition challenging the proceedings dated 27.04.2004 passed by the second respondent.

Learned Counsel for the petitioner submits that his client had no knowledge of the proceedings of the second respondent under Section 38-A of the Tenancy Act declaring the legal heirs of late Vorla Kanna Reddy as absolute owners and possessors of the subject lands. He submits that the petitioner never gave any vakalat nor signed any compromise memo before the second respondent and the order was obtained by the opposite parties by playing fraud, and therefore, the same is not binding on the petitioner. Learned Counsel also contends that the petitioner never gave any GPA in favour of the fifth respondent herein, who allegedly represented the petitioner and another before the second respondent.

The learned Counsel for the petitioner has taken this Court through the necessary material including the vakalat filed before the second respondent and the memo of compromise filed by as many as fifteen persons including the petitioner herein agreeing that the legal heirs of late Vorla Kanna Reddy purchased the land and made an application under Section 38(5) of the Tenancy Act. The question whether the petitioner gave GPA in favour of the fifth respondent to represent before the second respondent is a matter for verification. Though the second respondent issued orders on 27.04.2004, this Writ Petition is filed after a period of two and half years without availing the remedy under Section 90 of the Tenancy Act. Further, when the petitioner alleges fraud on the part of the opposite parties in obtaining the documents conferring title or documents incidental to such conferment of title, such a question can always be raised collaterally in a civil suit before the civil Court. Therefore, this Court is not inclined to go into the merits of this case. Liberty is given to the petitioner to file an appeal before the Joint Collector under Section 90 of the Tenancy Act along with an application for condonation of delay. Liberty is also given to the petitioner to seek appropriate adjudication before the civil Court into the question of fraudulent compromise memo allegedly filed on behalf of the petitioner by the fifth respondent.

The Writ Petition, with the above observations, is accordingly disposed of. No costs.

(V.V.S.RAO, J)

11.09.2006
vs